DOCUMENT RESUME

ED 253 829 CG 018 032

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TITLE Increased Criminal Behavior by the Elderly: Concerns for the Justice System.
PUB DATE 7 Nov 84
NOTE 31p.; Paper presented at the Annual Meeting of the American Society of Criminology (Cincinnati, OH, November 6-9, 1984).
PUB TYPE Information Analyses (070) -- Speeches/Conference Papers (150)

EDRS PRICE MF01/PC02 Plus Postage.
DESCRIPTORS Age Differences; *Crime; Demography; *Older Adults; Trend Analysis

ABSTRACT

This paper summarizes some of the data on arrest patterns and demographic trends relating to criminal behavior in the elderly. Variations in the crime rate by age and population are discussed, as is unreported elderly crime. Six tables describe the percentage distribution of arrests for all offenses by age groups, percentage distribution of arrests for index offenses by age groups, mean percentage distribution of arrests for all offenses by selected age groups, population projections for those aged 55 and over, percentage of total arrests from 1971 to 1980 for those aged 55 and over, and total arrests by offense category for those aged 55 and over. Factors contributing to economic crimes perpetrated by the elderly are suggested. Recommendations concerning training, policy, and procedural concerns for the various segments of the criminal justice system, and a rationale for incorporating gerontological studies into criminal justice curriculums are presented. The need for educating judicial personnel and elderly defendents is also addressed. (JAC)

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INCREASED CRIMINAL BEHAVIOR BY THE ELDERLY: CONCERNS FOR THE JUSTICE SYSTEM

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A Paper Presented at the:

American Society of Criminology
1984 Annual Meeting
November 7, 1984
Clarion Hotel
Cincinnati, Ohio

CG 018032

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INCREASED CRIMINAL BEHAVIOR BY THE ELDERLY: CONCERNS FOR THE JUSTICE SYSTEM

Abstract

Crimes perpetrated by elderly persons have increased substantially in recent years. Economic hardship (perceived or real), coupled with increased life expectancy and improved health status may be major contributors to elderly crime.

This paper selectively summarizes some of the empirical evidence with respect to arrest patterns and demographic trends as they relate to the elderly population. Further, recommendations concerning training, policy, and procedural concerns for the various segments of the criminal justice system are presented.

INCREASED CRIMINAL BEHAVIOR BY THE ELDERLY: CONCERNS FOR THE JUSTICE SYSTEM

Introduction

Recently, substantial media attention has focused on what some persons refer to as a "geriatric crime wave." Crimes perpetrated by elderly persons, to a certain extent, have emerged as one of the media issues of the 1980's, much like concerns of "elderly victimization" flourished in media accounts during the early to mid 1970's.

The media interest in reporting trends and instances of elderly criminal activity can be attributed in part to researchers who have statistically identified such trends. For example, Shichor and Kobrin (1978) reported that arrests for felony offenses have increased by 224 percent among the elderly population during the eleven year period 1964 to 1974, compared with an increase of 43 percent for all age groups. Fienburg (1983) argues that the nearly 380,000 elderly persons arrested in 1980 do constitute what he refers to as an "emergent social problem." Bachand (1984) compared arrests to population growth in the United States and found that the total number of persons arrested for serious offenses increased 100 percent from 1971 to 1980, while their relative portion in the population increased only 22.2 percent.

It is clear that a statistical portrait of a condition or a problem within society does not always properly describe reality. For example, an improved economy does not necessarily mean improvement for all people. A reduction in unemployment in general may only marginally effect unemployment rates among minority youth. Accordingly, a statistical increase in arrests among elderly persons may not support the notion that a "geriatric crime wave" is upon us!

George Sunderland, senior coordinator of criminal justice services for the American Association of Retired Persons (AARP) has recently refuted the existence of a crime wave among the elderly population. Sunderland argues that researchers of elderly criminal behavior are little more than "number benders." Sunderland states:

> In the various parts of the country many people gamble by playing the "numbers." Recently, there has been a tremendous increase in playing a different game of "numbers." The new players are not gamblers but statisticians and researchers. Most are writers seeking something new to capture a byline. These are harmless headline grabbers unless their actions lead to inappropriate funding, imprudent policy decisions, or misdirected operations. Numbers can often be bent to the will of the bender. Reporting two robbery arrests of elderly offenders during an entire year in a populous state is not too impressive. And when the same state reports three such arrests the next year, it is still not impressive. But reporting a 50 percent increase--that may get some attention. The percentage is accurate but misleading. (Sunderland, 1982).

Sunderland's contention that the elderly offender is overstated is also supported by other research. Cullen et al., examined the arrest rate among senior citizens for the years 1967, 1972, 1977, and 1982. In defining elderly offenders as those persons over the age of 65, they concluded that the "new elderly criminal" is best seen as an invention.

These contradictory findings raise some serious questions for those persons who are perhaps intrigued, interested, or simply confused about the issue of elderly criminal behavior. This paper will attempt to shed some empirical light on the subject. Further, the question of whether increased criminal behavior by the elderly should be a concern for the justice system will be addressed.

How Old is an Elderly Offender

As an identified population group, the elderly are often referred to as those persons over the age of 65. This numerical age distinction is often directly associated with retirement eligibility for social security, Medicare,

and other age-entitlement programs. Age 65 is also often used in research concerning criminal victimization of the elderly (Galaway and Hudson, 1983). However, for purposes of this study, there are grounds for defining the elderly offender as those persons age 55 years and older who have been arrested for violations of criminal law.

A recent review of the literature on prison inmates suggests it is difficult to identify a commonly accepted age determinant of what constitutes the elderly prison population. Rubenstein (1982) cites studies that define the older inmate at age 25 or over while the majority of studies use 50 plus or 55 plus. Goetting (1983), making reference to the "elderly in prison," reports that persons age 55 and over represent an estimated 4.3 percent of all federal inmates and 2.3 percent of state inmates. Thus, the definition of what constitutes elderly in the work force, i.e., 65, may be inappropriate for criminological study.

Shichor and Kobrin (1978) argue that arrest data contained in the Uniform Crime Reports suggest that elderly status may be applied appropriately to the 55 and over age group. As is evident in the arrest data presented in Tables 1 and 2, the proportion of the total arrested persons in 1971 for all offenses in the 45 to 49 age group was 5.7 percent. This declined to 4.3 percent in the 50 to 54 age group, and to 2.9 percent in the 55 to 59 age group. In actual numbers, total arrests made in the 50 to 54 age group are 91,682 fewer than in the 45 to 49 age group. When comparing decreased between ages 50 to 54 and 55 to 59, arrests decrease over 101,000 in the latter. Although the total number of arrests continues to decline in the age groups 55 to 59, 60 to 64, and 65 and above, they do comprise a relatively homogeneous group with respect to their proportion of all arrests.

Noting the relationship of age to crime, there appear to be five age groupings, each of which is roughly uniform in the proportion each constitutes

TABLE 1

PERCENTAGE DISTRIBUTION OF ARRESTS FOR ALL OFFENSES BY AGE GROUPS:

1971, 1976, AND 1981

YEAR	NUMBER	UNDER 55	25 - 29	30 - 34	35 - 39	40 - 44	45 - 49	50 - 54	55 - 59	60 - 64	65 & OVER
1971	6,966,822	53.6	10.9	7.3	6.5	6.4	5.7	4.3	2.9	1.8	1.5
1976	7,912,348	56.7	12.3	7.8	5.9	4.9	4.2	3.4	2.2	1.3	1.1
1981	10,293,575	54.1	15.1	10.0	6.2	4.3	3.2	2.6	1.8	1.1	1.0
	MEAN	54.8	12.8	8.4	6.2	5.2	4.4	3.4	2.3	1.4	1.2

SOURCE: U.S. Department of Justice, Federal Bureau of Investigation, Uniform Crime Reports, 1971, 1976, and 1981.

TABLE 2

PERCENTAGE DISTRIBUTION OF ARRESTS FOR INDEX OFFENSES[a] BY AGE GROUPS:

1971, 1976, AND 1981

YEAR	NUMBER	UNDER 25	25 - 29	30 - 34	35 - 39	40 - 44	45 - 49	50 - 54	55 - 59	60 - 64	65 & OVER
1971	1,397,304	76.1	8.3	4.8	3.3	2.5	1.8	1.2	.8	.5	.5
1976	1,787,106	73.7	10.3	5.3	3.3	2.3	1.8	1.3	.8	.5	.6
1981	2,293,754	67.1	12.5	7.7	4.3	2.7	1.8	1.4	1.0	.7	.8
	MEAN	72.3	10.4	5.9	3.6	2.5	1.8	1.3	.9	.6	.6

SOURCE: U.S. Department of Justice, Federal Bureau of Investigation, Uniform Crime Reports, 1971, 1976, and 1981.

[a]Index offenses include the following: murder and nonnegligent manslaughter, forcible rape, robbery, aggravated assault, burglary, larceny/theft, motor vehicle theft, and arson.

in total arrests: those under age 25, those 25 to 34, the 35 to 44 year olds, those in the 45 to 54 group, and the group 55 years of age and older. The average proportion of arrests for all offenses based on the mean for 1971, 1976, and 1981 are, 54.8, 20.8, 11.4, 7.8, and 4.9, respectively. (See Table 3.)

The congruous nature of their proportion to all arrests, and the fact that if convicted and sentenced they will be designated as "elderly prisoners," provide sufficient rationale for designating persons who commit criminal offenses over the age of 55 as elderly offenders.

Variations in Crime Rates by Age and Population

Age is an important variable in analyzing arrest data for criminal offenses. In 1979, persons under the age of 25 accounted for 57 percent of the arrests for violent crimes and 75 percent of the arrests for index crimes (Uniform Crime Reports, 1979). Because of differences in arrest rates for different age groups, one could argue that a society having a high proportion of young in its population at one time will have a higher overall crime rate than it would at a different time when a lower proportion of its population is young. The post-World War II "baby boom" produced a significant increase in the proportion of the population in the United States in the high crime rate years (15 to 24) by the early 1960's; from 1960 to 1975 the size of that age group increased about six times as fast as the rest of the population (Conklin, 1981). Thus, some argue the increases in crime during the 1960's are directly attributable to significant increases in the crime-prone age group within society.

Strasburg (1978) argues that "crime rates in the United States may decrease from their current levels by the mid-1980's, if age specific crime rates do not increase, because the proportion of the population in the high crime age groups will have declined by then." However, the effect of the

TABLE 3

MEAN PERCENTAGE DISTRIBUTION OF ARRESTS FOR ALL OFFENSES

BY SELECTED AGE GROUPS:

1971, 1976, AND 1981

AGE GROUP	1971	1976	1981	MEAN
Under 25	53.6	56.7	54.1	54.8
25 - 34	17.3	20.1	25.1	20.8
35 - 44	12.9	10.8	10.5	11.4
45 - 54	10.0	7.6	5.8	7.8
55 and over	6.2	4.6	3.9	4.9

SOURCE: U.S. Department of Justice, Federal Bureau of Investigation, Uniform Crime Reports, 1971, 1976, and 1981.

expected overall decline of 17 percent in the number of males between the ages of 15 and 20 years from 1970 to 1990 may be offset by the expected increase of 3 percent in the high crime group of urban non-white males between the ages of 15 and 20 (Strasburg, 1978).

Strasburg's notion that crime may increase or decrease depending on the future composition of "high crime-prone groups" is difficult to apply to elderly offenders as we know very little about the characteristics of these offenders. What is clear, however, is that more older Americans are being arrested and their numbers in terms of the population are increasing.

Substantial growth in the elderly population has taken place in recent decades and the trend is projected to continue through the year 2000. In 1970, persons over the age of 55 totaled over 38 million or 18.9 percent of the population. By 1980, the same segment of the population had increased by 7 million. Recent projections for the year 2000 suggest over 55 million or 21.1 percent of our population will be 55 years or older. (See Table 4.)

During the 10-year period 1971 to 1980, the arrest rate for persons age 55 plus has remained somewhat constant, from a high of 6.2 percent of all arrests in 1971 to a low of 4.0 percent in 1980. Overall, this age group has accounted for an average of 4.7 percent of all arrests in the United States over the 10-year period. (See Table 5). From 1971 to 1980, the total number of persons age 55 plus arrested for serious crimes has increased 100 percent while the portion of the total population age 55 plus increased 22 percent. (See Table 6). Based on pure population increases one could aruge that a 22 percent increase in population could explain some of the crime increase; however, it does not explain the total increase. A closer examination of the arrest data suggests that arrests for most categories of crimes increased far beyond the overall percentage of population increase. The major exceptions are gambling (-52.1 percent), drunkenness (-123.5 percent), and

TABLE 4

POPULATION PROJECTION AGE 55 PLUS

YEAR	TOTAL POPULATION	POPULATION AGE 55 PLUS	PERCENT OF TOTAL POPULATION AGE 55 PLUS
1970	203,212	38,656	19.0
1980	226,505	47,244	20.9
1990	243,513	50,600	20.8
2000	260,378	55,079	21.1

SOURCE: U.S. Bureau of the Census, Statistical Abstract of the United States: 1980 (101st edition).

NOTE: Population in thousands, based on slight improvement in the mortality rate, and a net immigration of 400,000 and a completed cohort fertility rate of 2.1 children per woman.

TABLE 5

PERCENTAGE OF TOTAL ARRESTS AGE 55 PLUS:

1971 TO 1980

YEAR	ARRESTS	ARRESTS 55 PLUS	POPULATION OF ARRESTS 55 PLUS
1971	6,966,822	429,634	6.2
1972	7,013,194	413,386	5.9
1973	6,499,864	360,251	5.6
1974	6,179,406	298,538	4.8
1975	8,013,645	385,529	4.8
1976	7,912,348	366,955	4.6
1977	9,029,335	409,319	4.6
1978	9,775,089	411,994	4.2
1979	9,506,347	385,107	4.1
1980	9,703,181	378,393	4.0
			Average: 4.9

SOURCE: U. S. Department of Justice, Federal Bureau of Investigation, Uniform Crime Reports, 1971 and 1980.

TABLE 6

TOTAL ARRESTS PART I CRIMES:

AGE 55 PLUS

	1971 AGENCIES 5,649 EST. POP. 155,446,000	1980 AGENCIES 12,042 EST. POP. 208,194,225		
	ARRESTS 55 PLUS	ARRESTS 55 PLUS	INCREASE #	DECREASE[1] %
Total Arrests	25,383	50,817	25,434	100.2%
Offense Categories:				
Criminal Homicide	943	798	-145	-15.3%
Rape	154	453	+299	+194.1%
Robbery	373	654	+281	+75.3%
Aggravated Assault	5,402	8,851	3,449	+64.8%
Burglary	1,423	2,265	842	+59.2%
Larceny	16,337	36,745	20,408	+124.9%
Motor Vehicle Theft	558	679	121	+21.7%
Arson	193	372	179	+92.8%
Violent Crime[2]	6,872	10,756	3,884	+56.5%
Property Crime[3]	18,511	40,061	21,550	+116.4%

SOURCE: U.S. Department of Justice, Federal Bureau of Investigation, Uniform Crime Reports, 1971 and 1980.

1. Because of rounding, the percentages may not add to total number of crimes.
2. Violent crimes are offenses of murder, forcible rape, robbery, and aggravated assault.
3. Property crimes are offenses of burglary, larceny/theft, motor vehicle theft, and arson.

TABLE 6 (CONT.)

TOTAL ARRESTS PART II CRIMES:

AGE 55 PLUS

	1971 AGENCIES 5,649 EST. POP. 155,446,000 ARRESTS 55 PLUS	1980 AGENCIES 12,042 EST. POP. 208,194,225 ARRESTS 55 PLUS	INCREASE #	DECREASE %
Total Arrests	404,251	327,576	-76,675	-19.0%
Offense Categories:				
Other Assaults	10,093	11,973	1,880	+18.6%
Forgery and Counterfeiting	614	879	265	+43.2%
Fraud	2,716	6,469	3,753	+138.2%
Embezzlement	197	181	-16	-8.1%
Stolen Property	936	1,544	608	+65.0%
Vandalism	989	2,101	1,112	+112.4%
Weapons	4,759	5,484	725	15.2%
Prostitution/Commercialized Vice	787	1,633	846	+107.5%
Sex Offenses (Except Rape/Prostitution)	2,562	3,398	836	32.6%
Drug Abuse Violation	1,153	4,268	3,115	+270.2%
Gambling	14,328	6,883	-7,445	-52.0%
Offenses Against Family/Children	1,324	954	-370	-28.0%
Drunk Driving	51,171	90,402	39,231	+76.7%
Liquor Laws	6,523	7,688	1,165	+17.9%
Drunkenness	242,655	108,570	-134,085	-123.5%
Disorderly Conduct	29,133	25,656	-3,477	-11.9%
Vagrancy	5,944	1,350	-4,594	-77.3%
All Other Offenses	27,422	47,891	20,469	+74.6%
Suspicion	945	252	-693	+73.3%
Total Arrests: Part I and Part II Offenses	429,634	378,393	-51,241	-11.9%

SOURCE: U.S. Department of Justice, Federal Bureau of Investigation, Uniform Crime Reports, 1971 and 1980.

vagrancy (-77.3 percent). Frequently, the crimes of vagrancy and public drunkenness are closely linked to drug or alcohol abuse. In 1975, there were over a million arrests; approximately one out of every seven arrests in the United States was for public drunkenness. Nevertheless, the number of arrests for drunkenness in 1975 was almost a half million less than it was in 1972. Haskell and Yablonsky (1978) attribute the reduction to the large number of alcoholic diversion programs, largely fundad by the federal government (Haskell and Yablonsky, 1978). The goal of these projects is to divert a significant portion of public inebriates (including thousands of elderly) from the criminal justice system to the health-care system. In spite of the apparent diversion of some 140,000 elderly offenders to the health-care or other systems, almost 380,000 elderly persons were arrested in 1980.

Unreported Elderly Crime

In an earlier paper written on this subject, the available literature on police and prosecutorial discretion was reviewed in an effort to determine whether the offender's age influences decisions to arrest and prosecute offenders (Bachand, 1983). This literature strongly disputes the notion many people have concerning what is fact will happen once they have been detected by either police or store security personnel. The assumption that once you have been detected perpetrating a crime, arrest and prosecution will follow, is not necessarily a correct assumption. In general, the literature suggests that both environmental and situational factors influence police decisions to arrest, and prosecutor's decisions to formally prosecute offenders. Environmental factors include community enforcement concerns and the offender's age and sex. For example, police tend to focus their efforts on serious crime problems as defined by the community. Accordingly, it is unlikely--in most cases--that the elderly will displace the more violent youthful offender as an investigative priority. In terms of situational influencers, Donald Black

notes that several factors influence police officials' decisions regarding whether or not to arrest:

1. Most arrest situations arise through citizen, rather than police initiative.

2. Arrest practices sharply reflect the preferences of citizen complaints.

3. The police are lenient in their arrest practices.

4. Evidence is an important factor in the arrest.

5. The probability of arrest is higher in legally serious situations than in those of a relatively minor nature.

6. The greater the relational distance between a complainant and a suspect, the greater the likelihood of arrest.

7. The probability of arrest increases when a suspect is disrespectful toward the police (Black, 1980).

The literature review, coupled with numerous interviews with police, prosecutors, and store security personnel conducted over the last 3 years, strongly suggest that elderly suspects are more often given the benefit of the doubt in arrest situations. In terms of situational factors influencing arrests, the following observations are made:

1. Elderly offenders will be arrested less often for law violations if their criminal activity is concentrated in less serious crime categories. (Exception: drunken driving offenses)

2. The elderly offender's age, combined with a respectful attitude toward police, will result in lower arrest rates.

3. Elderly shoplifters will be arrested less often because store security personnel generally do not consider elderly persons as prime candidates for theft of goods and materials.

Note: In two separate interviews with store security personnel, the question was asked "What percentage of your shoplifting arrests are of elderly persons?" In both cases, the response was that arrests of elderly persons are rare, and that most of their offenders were teenagers.

> In subsequent interviews (conducted two weeks later), both investigators revealed that several elderly suspects were detected during the two-week interval shoplifting. When questioned as to the outcome of those arrested, the response was that the suspects were warned and in some cases "ordered" not to return to the store. In all the cases noted, no formal report of an arrest was made, thus these apprehensions would not be reflected in the Uniform Crime Report-Arrest Data.

In one rather unusual case, an elderly woman (approximately age 80 years) was detected stealing three cans of dog food. During the subsequent interview, it was determined that the woman had no dog, but was stealing the less expensive dog food rather than other meats for human consumption. Although this particular case does not appear to be "typical," it does illustrate an important point in terms of what may be a "hidden problem" for some segments of the elderly population. Certainly, there is evidence that a portion of the elderly population is suffering from economic hardships that at some point may lead them to commit crimes to support their existence. For those who are detected and can substantiate their "real need" rarely is formal arrest and prosecution initiated. Although few people would argue with the idea of affording these persons leniency from prosecution, there are some potentially negative implications that can result from this lenient practice. For example:

1. The informal release of "destitute elderly suspects" does not bring the individual's economic problem to the attention of the proper officials--officials who if aware could render some aid.

2. The practice of informally "warning" elderly shoplifters or "banning them from the premises" does not help in addressing the issue as to why they perpetrated the crime in the first place.

3. The use of "warnings" as opposed to more formal action may serve as "reinforcement" or a "motivation" for some elderly persons to perpetrate more crime.

Obviously, the issues raised here are difficult ones in terms of developing alternative response strategies. In suggesting that lenient treatment may promote continued deviance, we could ask the question "What are the alternatives?"

Perhaps formal prosecution? Incarceration? If so, for what purpose--deterrance? Rehabilitation? Retribution? At this point, the general response to the elderly as criminals is to informally dispose of the case when possible. Using conventional rationale one could argue:

1. We give juvenile offenders break after break because they are young. Why not give the elderly the same break because they are old?

2. Who needs the publicity associated with arresting or prosecuting "grandfather" or "grandmother" when street crimes perpetrated by younger, more dangerous offenders are seemingly out of control?

The literature on police discretion, coupled with interviews conducted with store security personnel, suggest the "elderly crime problem" may be grossly understated. However, this does not infer that an accurate assessment of their true involvement is needed, for it is evident that their present involvement in crime is minimal in terms of scope of the contemporary crime problem confronting Americans. However, specific issues raised in this discussion concerning at least the economic plight of some elderly citizens should be of major concern to all of us. It is out of concern for the needy, distraught, the ill and those suffering from alcohol and chemical dependencies that this discussion was formulated. Perhaps our criminal justice system does not provide the answers for this particular offender population. But ignoring the problem by affording them protections from arrest and prosecution may be aiding the concealment of what is an "emergent social problem" for some segments of the aged population.

Summary

The evidence presented in this study shows that the total number of elderly persons present in our society has increased and will continue to increase in future years. Further, an analysis of arrest data for those persons aged 55 plus indicates their participation in criminal activity has increased dis-

proportionately to their actual increases in the population. Whether these trends will continue in future years is difficult to predict. However, there are some obvious societal trends that suggest this phenomenon will continue.

In 1970, persons over the age of 55 totaled over 38 million or 18.9 percent of the population. By 1980, the same segment of the population had increased by 7 million. Recent projections for the year 2000 suggest over 55 million or 21.1 percent of our population will be 55 years or older. During the 10-year period 1971 to 1980, the total number of persons age 55 plus arrested for serious crimes in the United States increased over 100 percent. Among the more notable crime categories where increases in arrests have occurred are property offenses. Noting this trend, some observations should be made.

It can be theorized that two primary factors may contribute to increases in economic crimes perpetrated by the elderly in the future. First, the actual numbers of elderly persons present in the population will continue to increase. Second, this trend, coupled with increases in life expectancy, may create certain situational factors conducive to the perpetration of both economic and violent crimes by the elderly. Those factors are as follows:

1. Increased life expectancy will result in some elderly persons having to rely on life savings, social security, and fixed pensions for economic survival for longer periods of time.

2. Continued inflation, increases in taxes and fuel costs, coupled with longer life expectancy, could result in increased economic deprivation among this segment of the population.

3. Due to the present trends to decrease rather than increase aid to the elderly (social security, Medicare, etc.), motivation for some elderly to participate in crime for economic survival may emerge.

4. Generally improved health status among the aged population will enable them to participate in other crimes, e.g., violent crimes, where in previous decades declining health and physical deterioration may have prohibited such participation.

At the present time, little theoretical research concerning elderly criminalization has been undertaken. Perceived or real economic hardship, coupled with increased life expectancy may be major contributors to crime among the elderly. However, other frustration producing factors (e.g., diminished sight, hearing, and the deterioration of sensory organ functions) may also contribute to outbreaks of anti-social behavior. For now, however, it is known that elderly persons in increasing numbers are being arrested for law violations.

Training, Policy, and Procedural Concerns for the Criminal Justice System

There exist both practical and humanitarian reasons why criminal justice practitioners should be concerned with the elderly offender phenomenon. From the practical standpoint, the police should consider the following:

1. Police agencies should adopt investigative and arrest procedures for elderly offenders that are similar to those applied to juveniles detained for less serious law violations.

Many police officers may feel that it "looks bad" to arrest an elderly man or woman, especially in those instances when the law violated is a less serious offense. While police discretion is an important tool in dealing with minor forms of criminal activity, it cannot be proven that outright unconditional release of juvenile or elderly suspects is a deterrent to future involvement in criminal activity. With this in mind, police officers should begin to view elderly crime "as crime," and use their discretion to determine which offenders should receive admonitions and warnings, similar to the practice used when processing juvenile offenders.

Perhaps one of the main factors police officers should use in determining whether to formally prosecute the elderly offender is whether the suspect is a "first time offender" or a "habitual offender." For juvenile offenders, many police agencies have developed a "contact" record system which assists juvenile officers in their decision-making process. Simply stated, field officers may

temporarily detain a juvenile suspect, report the incident in writing, and release the person to appear at the police station at a later date. Whether formal or informal action is taken against the suspect is often dependent upon: (1) the type of crime, (2) the seriousness of the crime, (3) the mitigating circumstances, and (4) the number of previous contacts.

The adoption of this practice for processing elderly offenders would allow police officers the time necessary to determine the most appropriate course of action. Clearly, the utility of prosecuting an elderly person for a law violation where the underlying motivation for the offense is poverty or mental illness would not be prudent use of scarce criminal justice resources or equate to "fairness" to the suspect. This recommendation proposes that the elderly offenders be held accountable for their behavior and be afforded the opportunity of receiving the same reasonable treatment that their juvenile counterparts are provided.

2. Police administrators should develop policies to ensure patrol and investigative personnel take the same precautions when investigating elderly suspects as they would younger suspects.

Arrest statistics show that elderly persons are capable of committing serious, violent crimes and of possessing weapons. As a result of these facts, the notion that the elderly population are <u>all</u> law abiding citizens should be dispelled in police agency training programs and in operational procedures. This recommendation addresses two different, yet related concerns. The first concern is that of the general safety of police officers who may have contact with potential or real elderly offenders. The second concern relates to certain situational factors that may lead some elderly persons to commit law violations for defensive purposes.

For example, at least a portion of [illegible] <u>serious</u> crimes for which the elderly are arrested can be linked to a defensive posture that they have developed in recent years as a result of their increased victimization. During the last 15

years, the elderly population has increasingly become the victim of crimes perpetrated by juveniles and young adults. The particular crime categories include the personal crimes of robbery, assault, and purse-snatching, along with such property crimes as burglary, vandalism, and larceny. These factors have contributed to at least some elderly persons taking the following precautions:

- Arming themselves when they go out traveling or shopping for purposes of self-preservation
- Maintaining weapons in their homes for security purposes and protection of life and property
- Taking aggressive action, i.e., assaulting and, in some cases, using deadly force against persons viewed as threats or antagonizers

These developments have obvious training implications for police personnel. First, police officers need to be aware of the plight of the elderly and their concerns about having been or becoming victims of crime. Second, police officers should recognize that at least some elderly have armed themselves in response to the perceived or real fear of being victimized. The fear factor, coupled with diminished hearing and vision among the aged population could well result in faulty interpretation of events or contacts made by police and others.

3. Apprehension, investigation, case preparation, and prosecution of first-time elderly offenders is a time consuming and costly endeavor.

The development of well-conceived diversionary or referral programs associated directly with appropriate social and community agencies may serve as an effective cost efficient alternative to prosecution. One such diversionary program program for first-time elderly shoplifters in Florida has yielded significant results (Fienburg, 1984). The obvious advantage of adopting diversionary programs for elderly offenders are:

- Their use would reduce the number of criminal cases requiring the attention of police, prosecutors, and judges. The criminal justice system is presently operating at over-capacity and any reduction of criminal processing time would serve to improve the system's functioning

- These types of programs could be useful in identifying the kinds of problems that may have contributed to the deviant behavior, i.e., economics, alcohol or drug dependency. This particular approach would be especially effective in those cases where the offender had not participated in criminal activity prior to the causal factor emerging.

- Diversion would be a cost-effective alternative to incarceration. The costs of housing an inmate for one year exceed $16,000 in some states. These costs are generally based on the assumption that the inmate is young and relatively healthy. Clearly, the costs of incarcerating and elderly person--a person requiring a special diet and above average medical attention would be substantially higher.

4. Police and jail administrators should consider formulation of a special incarceration policy for elderly offenders.

Many elderly persons have physical limitations that may render them susceptible to attack and/or abuse if they are not segregated from the younger inmates. The issue here concerns not only prisoner safety and security but also administrative protection from civil action that may result from injuries or medical conditions incurred during incarceration.

5. Law enforcement and jail personnel need training concerning the physical and psychosocial changes that are part of the normal aging process and the health conditions seen frequently in older adults. Ultimately, they could respond appropriately to the health needs of the incarcerated elderly.

It is important for law enforcement jail personnel to become skilled in early recognition of potential or actual health changes in those elderly under their supervision. Frequently, elderly persons will not notice or will not report early changes in their health status. This could lead to a life-threatening situation for them, because it is difficult to reverse abnormal changes that are advancing, for instance, in the cardiovascular and respiratory systems of the elderly. Jail personnel who are trained to recognize normal and abnormal changes in the health status of the elderly will know which changes should be reported without delay so the incarcerated elderly will receive the health care

appropriate for their needs. This knowledge will also assist jail personnel in developing strategies to maintain and promote the health of the elderly which will enhance the quality of their life during the incarceration period.

6. Both police academies and college criminal justice programs should incorporate "gerontological studies" as part of their curricula.

There appears to be sufficient rationale for this recommendation. The elderly as a population group often become involved with the criminal justice system. Historically, the elderly's involvement was limited to being victims of crime. Numerous research articles document rates of elderly victimization. However, little related literature suggests how the practitioners operating within our criminal justice system should respond to the "human dimension" of elderly victimization. Should they be treated differently than the younger crime victim? For example:

- Should the elderly be introduced to their role as victim/witness in criminal prosecution?
- Should they be afforded transportation to the prosecutor's office--or to court appearances?
- Should they receive--or even be allowed to receive assistance in court room testimony?
- Are there developmental factors associated with the "aging process" that make the elderly victim different in terms of how the investigating officer, detective, or prosecutor might best cope with them?

The elderly as "criminals," on the other hand, will further increase police contact with the elderly population. Initially, it was theorized that the elderly would be treated more leniently than younger aged offenders. The findings presented in this paper suggest that this is true. Again the question emerges, should elderly criminals--simply because they are old--be treated differently?

A proper response to this question is difficult to develop. Presently, criminal justice literature only specifies two types of offenders. One recognizable offender type is the "juvenile"--he/she should be treated differently.

The second offender type is the "adult"--he/she should be treated like adults. Within the general designation of adults, emerges the "older or aged adult." Detention facility administrators recognize this special adult classification. They are the inmates that are generally well behaved and cost more than younger offenders to incarcerate.

The issue of incarceration raises some interesting questions as to how and for what purpose are elderly offenders legally sanctioned. Do judges impose sanctions on elderly persons to deter future criminal behavior? To rehabilitate the offender? Or to punish him or her? Surely, these types of sentencing rationale apply differently to the elderly offender than they do to younger aged offenders. How does one punish or, for that matter, rehabilitate a person who is terminally ill? Is it reasonable to impose a severe fine in lieu of a jail sentence when financial hardship contributed to the perpetration of the offense in the first place? Is it fair to accept a guilty plea to the "original charge" from a person who does not realize over 90 percent of the persons convicted in the United States plead guilty to lesser offenses? Is it the responsibility of those persons who practice criminal justice at the various levels throughout the system to educate the elderly as to their legal rights and protections--those same protections that are so familiar to younger professional criminals?

This paper has recommended that specific policies and procedures relating to elderly offenders be considered by law enforcement agencies. Rationale for incorporating "gerontological studies" into police academy and college criminal justice curriculums were presented. Further, the need for educating judicial personnel to develop a reasonable rationale for sentencing offenders was proposed. Finally, it was suggested that in "fairness" to the elderly defendents, they too should be educated as to their legal rights, constitutional safeguards, and introduced to how our system of justice really operates. However, this paper did not examine the medical, social, or psychological aspects of aging.

Therefore, the most appropriate education or training that practitioners should receive concerning the elderly offender phenomenon may result from further research or the integration of existing research for application in criminal justice settings.

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